

REMARKS

Review and reconsideration of the Office Action dated July 28, 2005 is respectfully requested.

Applicants note that the Examiner's position has not changed, and the claims remain rejected for the same reasons set forth in the previous Office Actions.

Basically, the Examiner rejected Claims 1-6 and 8 under 35 USC 103(a) as being obvious over Hornstein in view of Ashurst.

Applicants would like to point out to the Examiner that the claims have not been amended by the present amendment. Applicants believe that the claims are novel and not obvious over the cited art.

No new matter has been introduced to the claims by this amendment.

Applicants believe that the pending set of claims are novel and not obvious in view of the combination of Hornstein and Ashurst references, because neither of the references taken alone or in combination teach: 1) the step of introducing a flavor mixture, which has been introduced into a first matrix **into a second matrix** (step c); 2) **comparing** the two headspace analyses (steps d and e); and 3) **changing** (adjusting) the flavor mixture in the second matrix in order **to match** the flavor properties of the first matrix (also step e).

There is no disclosure in either of the cited references that the flavor composition in the other matrix is changed to correspond to the composition of the base matrix.

Thus, even if the references are combined, they will fail to teach steps c-e of the present set of claims.

The feature of the present invention lies in comparing the flavor composition of a first and second matrix, adjusting the flavor of the second matrix to match the headspace analysis of a first matrix containing a flavor mixture having desirable properties.

By means of the present inventive process, it is possible to apply a flavor profile of a food to another food. The content of each individual flavor compound of an aroma is adapted by using correction factors, so that a completely new flavor formula results, which is **tailor-made to the new product**. Surprisingly, using this inventive process, flavor adaptation can be carried out considerably faster and more goal-oriented, than by a purely flavor/sensory approach.

Applicants note the Examiner's indication that Hornstein teaches the **combination of separate batches**. The Examiner's indication is correct, on page 72, at the end of the first full paragraph, of the reference can be found the teaching that the isolates and fractions from separate **batches are combined prior to further fractionation and analysis**.

But the above teaching does not have anything to do with the present invention, which requires that the flavor of the base (first) matrix (having desired properties) be analyzed **prior to combining with another (second) matrix, comparing both**

results, and then **adjusting** the results of the second matrix to match the results of the first matrix. In this way the second matrix will have the desired properties for which the first matrix was selected.

Applicants note that the Ashurst reference was cited to show flavor manufacture based on analysis of the flavor materials.

Applicants note that the Ashurst reference fails to overcome the deficiencies of the Hornstein reference. The reference **also** fails to teach: 1) the step of introducing a flavor mixture, which has been introduced into a first matrix **into a second matrix** (step c); 2) **comparing** the two headspace analyses (steps d and e); and 3) **changing** (adjusting) the flavor mixture in the second matrix in order **to match** the flavor properties of the first matrix (also step e).

Regarding Claim 2, the cited references further fails to teach: 1) calculating a correction factor from the peak area percentages of the analyses of the base matrix and the other matrix, 2) calculating the numbers of moles of the individual flavor compounds in the flavor mixture, and 3) on the basis of the correction factors determined in step g) adapting the flavor mixture to the other matrix.

Regarding Claim 5, the cited references further fail to teach that the peak area values determined by gas chromatography for the flavor compounds in the headspace over the base matrix

and for the flavor compounds in the headspace over the other matrix are used to form a quotient for calculating the correction factors.

None of the cited references recognizes the importance of optimizing the match of headspace analysis by adjusting the composition of flavor components in two different matrices. Thus, in the absence of the recognition that the optimization is a result effective variable, a person skilled in the art cannot render this process as obvious by looking at the teaching of the Hornstein and Ashurst references.

Combining the references

There is no disclosure in either of the cited references that the flavor composition in the other matrix is changed to correspond to the composition of the base matrix.

Thus, even if the references are combined, they will fail to teach steps c-e of the present set of claims.

Furthermore, the motivation to modify the prior art must flow from some teaching in the art that suggests the desirability or incentive to make the modification needed to arrive at the claimed invention. Evidence of such motivation may "flow from the prior art references themselves, the knowledge of one of ordinary skill in the art, or, in some cases, from the nature of the problem to be solved."

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ATTORNEY DOCKET NO.: 3968.043

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination.


Finally, Applicants note that the Examiner completely ignored the Request for a telephone interview filed on May 18, 2005. Thus, at this time, Applicants is filing another Request for a Telephone Interview which requires the presence of Examiner Wong, and her Supervisor, Examiner Cano.

In view that none of the references taken alone or in combination teach all the steps of the independent claims, Applicants respectfully request that the Examiner withdraw the rejection.

In addition, favorable consideration and early issuance of the Notice of Allowance are respectfully requested.

Respectfully submitted,

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Date: November 28, 2005



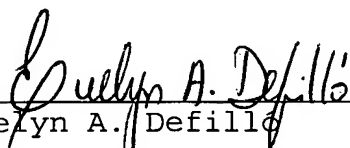
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CERTIFICATE OF MAILING AND AUTHORIZATION TO CHARGE

I hereby certify that the foregoing AMENEDMENT E AND REQUEST FOR A TELEPHONE INTERVIEW for U.S. Application No. 10/023,178 filed December 17, 2001, was deposited in First-Class U.S. mail, with sufficient postage, addressed to: Attn: Mail Stop: AF, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on **November 28, 2005**.

The Commissioner is hereby authorized to charge any additional fees, which may be required at any time during the prosecution of this application, except for the issue fee, without specific authorization, or credit any overpayment, to Deposit Account No. 16-0877.



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